

**ENSERCH
EXPLORATION** INC

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received
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August 20, 1997

VIA FEDERAL EXPRESS

Department of the Interior
Minerals Management Service
381 Elden Street, Mail Stop 4700
Herndon, Virginia 20170-4817

Attention: Rules Processing Team

Re: MMS Proposed Rule
Oil Spill Financial Responsibility
For Offshore Facilities

Ladies and Gentlemen:

Enclosed please find the comments of Enserch Exploration, Inc. with regard to the Minerals Management Service's Proposed Rule in connection with Oil Spill Financial Responsibility For Offshore Facilities. As a large independent oil and gas operator with significant operations in the coastal areas and on the Outer Continental Shelf, EEX will be significantly affected by the outcome of this rulemaking. We appreciate the opportunity to provide these comments on the proposed rule.

Sincerely,


John C. Harrison

JCH/vm

Comments of Enserch Exploration, Inc.

on

**Minerals Management Service's Proposed Rule
"Oil Spill Financial Responsibility For Offshore Facilities"**

62 Federal Register 14052 (March 25, 1997)

**Submitted to the Minerals Management Service
August 22, 1997**

**Comments of Enserch Exploration, Inc. on
Minerals Management Services Proposed Rule
“Oil Spill Financial Responsibility For Offshore Facilities”**

The following comments are submitted by Enserch Exploration, Inc. (“EEX”) with regard to the Minerals Management Services (“MMS”) Proposed Rule entitled “Oil Spill Financial Responsibility For Offshore Facilities” 62 Fed. Reg. 14052 et seq. (March 25, 1997).

1. Section 253.11. EEX believes that the concept of the “designated applicant” is unworkable and is unnecessary for the efficient administration of the rule. If, for example, an operator owns multiple facilities on a lease and sells one of the facilities to another party, the operator could potentially be financially responsible for a facility which it no longer owns or operates. MMS has established procedures for recognizing different operators for different facilities on the same lease. Under current oil spill financial responsibility (OSFR) requirements, a single demonstration for each lease is not required; multiple demonstrations are allowed for different facilities on the lease. This scheme should be preserved under the new OSFR rule.
2. Section 253.14. MMS should clarify that the “worst case oil spill discharge volume” is not cumulative daily production over multiple days nor based on system capacity.
3. Section 253.23. The requirement in §253.23(b) that audited financial statements be submitted together with a letter signed by the company’s treasurer is unnecessary and should be deleted. Such a letter would just repeat information already in the audited financial statements.
4. Sections 253.25 and 253.26. These sections include words and phrases that should be clearly defined (as noted in the Talley & Associates’ Report) (“Talley Report”). This has been a concern under OCSLA wherein many terms are left undefined and open to interpretation. Terms that need to be clearly defined include identifiable US assets, identifiable total assets, unencumbered and unimpaired US assets, plant property and equipment, and contingent encumbrance. EEX would also like a clarification of the term “unencumbered and unimpaired US assets whose value will not be affected by an oil discharge from COF.” Does this term exclude assets that do not have a COF, i.e., onshore assets? Section 253.26(c) should include a proviso that identified assets may be sold, subjected to a security interest or otherwise encumbered during the period as long as other similar assets are substituted for the identified assets that are sold or otherwise encumbered.
5. Section 253.27. The requirement to include a certification by the auditor of the financial statements that the value of the encumbered assets is reasonable and there are no encumbrances on the assets is unnecessary and should be deleted. Under OCSLA, an attestation by a company officer is all that is required. An independent

auditor will not necessarily know the reasonable value of the asset. Also, there is some question whether an independent CPA firm would actually issue an opinion on a property's value.

6. Section 253.40(b). MMS should clarify the type of "evidence" that will be necessary and sufficient to reflect the party's authority to sign Form MMS 1016.
7. Section 253.42. EEX believes that notifying MMS of every change in ownership for OSFR is unnecessary and constitutes an excessive paperwork burden for both the industry and MMS. Under existing lease rules, MMS and appropriate state agencies already receive notification of all changes in ownership. It should not be necessary to duplicate this notification on different forms and a different schedule for this rule.
8. Forms: Form MMS 1017. Please confirm that this form is not needed if Form MMS 1016's designated applicant is the responsible party.

Form MMS 1018. Since the dollar level of financial responsibility is for a specific amount, why does item #3 of this form provide a lower and upper limit?

Form MMS 1021 AND 1023. These forms require the designated applicant to list all leases and facilities and revise the listing for all changes. Since MMS has all of this information through its own records, as noted above, MMS should delete this requirement.

General comment on forms: Consideration should be given to providing guidelines for filling out the forms.

9. Talley Report. Regarding comments in the Talley report, EEX agrees with the need for additional definitions, as discussed above. EEX does not agree with Talley at F.9.d. that property, plant and equipment lacks the portability of current assets. Some current assets may take substantial time to convert to cash and a substantial company may be able to generate cash just as quickly by other means. Also, EEX questions Talley's assertion that PP&E as a measurement is suspect because of its historical cost nature. Oil and gas companies using both the successful efforts and full cost methods of accounting regularly impair their PP&E when it is evident they are overvalued.
10. Other Comments. EEX fully supports the MMS proposed rule whereby a company needs to obtain only one certificate to cover all leases and facilities. EEX also supports the discontinuance of the working capital requirements as a requirement for establishing financial responsibility.